

Senate Bill 221

By: Senators Rogers of the 21st, Stephens of the 27th and Pearson of the 51st

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to allow alternative delivery systems to opt out from having a public defender system under certain circumstances; to correct cross-references; to amend Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to collections to be appropriated for indigent defense, is amended by striking subsection (c) and inserting in lieu thereof the following:

"(c) Where the Georgia Public Defender Standards Council has approved an alternative delivery system as set forth in Code Section 17-12-36 or 17-12-36.1, the council shall pay from funds available to the council an amount of funds equal to the amount that would have been allocated to the circuit for the minimum salary of the circuit public defender, the assistant circuit public defenders, the investigator, and the administrative staff, exclusive of benefits, if the circuit was not operating an alternative delivery system."

**SECTION 2.**

Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by striking subsection (d) of Code Section 17-12-7, relating to councilmembers of the Georgia Indigent Defense Standards Council and their responsibilities, and inserting in lieu thereof the following:

"(d) Unless otherwise provided in this article, a quorum shall be a majority of the members of the council who are then in office, and decisions of the council shall be by majority vote of the members present, except that a majority of the entire council must approve the

1 appointment or removal of the chairperson or removal of a circuit public defender for cause  
2 pursuant to Code Section 17-12-20 and an alternative delivery system pursuant to Code  
3 Section 17-12-36 or 17-12-36.1 and other matters as set forth in Code Section 17-12-36."

### 4 **SECTION 3.**

5 Said chapter is further amended by adding a new Code section to follow Code Section  
6 17-12-36, relating to alternative delivery systems, to read as follows:

7 "17-12-36.1.

8 (a) Notwithstanding the provisions of Code Section 17-12-36, the council shall not have  
9 the authority to disapprove an alternative delivery system if a judicial circuit composed of  
10 a single county elects to continue in effect an alternate delivery system to the one set forth  
11 in this article if:

12 (1) The delivery system:

13 (A) Has a full-time director and staff and had been fully operational for at least two  
14 years on July 1, 2003; or

15 (B) Is administered by the county administrative office of the courts or the office of the  
16 court administrator of the superior court and had been fully operational for at least two  
17 years on July 1, 2003;

18 (2) The governing authority of the county comprising the judicial circuit enacts a  
19 resolution expressing its desire to continue its delivery system and transmits a copy of  
20 such resolution to the council not later than September 30, 2005; and

21 (3) The governing authority of the county comprising the judicial circuit enacts a  
22 resolution agreeing to fully fund its delivery system.

23 (b) A judicial circuit composed of a single county may make more than one request for  
24 approval of an alternative delivery system, provided the request is made on or before  
25 September 30, 2005.

26 (c) The council shall make a final determination not later than December 31, 2005 of  
27 whether an alternative delivery system meets the criteria set forth in subsection (a) of this  
28 Code section and shall therefore be able to continue its alternative delivery system.

29 (d) Nothing contained in this Code section shall prevent a governing authority of the  
30 county comprising the single county judicial circuit from enacting a future resolution which  
31 discontinues the alternative delivery system and thereafter being governed by the  
32 provisions of this article other than this Code section."

### 33 **SECTION 4.**

34 This Act shall become effective upon its approval by the Governor or upon its becoming law  
35 without such approval.

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- SECTION 5.
- All laws and parts of laws in conflict with this Act are repealed.